

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

ROBBIE LINTON, §
§
Plaintiff, §
§
v. § CIVIL ACTION NO. 9:16-cv-45
§
HARTFORD LLOYD'S INS. CO. §
§
Defendant. §

NOTICE OF REMOVAL

Defendant Hartford Lloyd's Insurance Company ("Hartford" or "Defendant") files this Notice of Removal and, in support thereof, would show the Court as follows:

1. On February 9, 2016, Plaintiff Robbie Linton ("Plaintiff") filed his Original Petition (the "Petition") in Cause Number 16CV33409, in the 123rd Judicial District Court of Shelby County, Texas. Defendant was served on February 17, 2016 and filed its answer on March 11.
2. Pursuant to 28 U.S.C. § 1446(a) attached hereto are copies of all process, pleadings and orders served upon Defendant and all pleadings and orders in the removed case. In particular: (i) an index of the matters filed herewith is attached as Exhibit A; (ii) a copy of the citation and executed service return for Defendant Hartford is attached as Exhibit B; (iii) a copy of the Plaintiff's petition is attached as Exhibit C; (iv) a copy of Defendant's Original Answer is attached as Exhibit D; (v) a certified copy of the docket sheet in the state court action is attached as Exhibit E; (vi) a list of all counsel of record, including addresses, phone numbers, and the parties represented is attached as Exhibit F; and (vii) a copy of the Affidavit of Lisa Levin is attached as Exhibit G.

3. This notice of removal is timely filed under 28 U.S.C. §1446(b) because it is filed within thirty days after Defendant Hartford first received a copy of a paper from which it could first be ascertained that the case is one which is or has become removable; *i.e.*, Plaintiff's Petition.

4. The claims asserted against Defendant are civil actions over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332. At the time this action was commenced, Plaintiff was, and still is a citizen of the State of Texas because he is an individual resident of the State of Texas. Defendant Hartford is a "Lloyd's Plan" organized under Chapter 941 of the Texas Insurance Code. A Lloyd's Plan is an unincorporated association of underwriters who sell insurance through an attorney-in-fact or other representative.¹ The citizenship of a Lloyd's Plan insurer, like all unincorporated associations, is determined by the citizenship of its members.² Hartford's underwriters are citizens of the states of Connecticut, Massachusetts and Washington.³ Thus, Hartford is a citizen and resident of the states of Connecticut, Massachusetts and Washington for purposes of diversity.⁴

6. The amount in controversy exceeds \$75,000 as stated in Plaintiff's Petition (Paragraph IV).

7. The one-year statute of limitation on removal of diversity cases imposed by 28 U.S.C. § 1446(b) does not prevent removal because this action was commenced less than one year ago.

¹ TEX. INS. CODE §§ 941.001, 941.051-941.052; *Salazar v. Allstate Tex. Lloyd's, Inc.*, 455 F.3d 571, 572 n.1 (5th Cir. 2006); *Royal Ins. Co. of Am. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882 (5th Cir. 1993), cert. denied, 511 U.S. 1032 (1994).

² *Royal Ins. Co. of Am.*, 3 F.3d at 882; *Mother Zion Baptist Church v. State Farm Lloyds*, 2014 WL 1401859 *1 n.1 (S.D. Tex. April 9, 2014); *Cronin v. State Farm Lloyds*, No. H-08-1983, 2008 WL 4649653, at *2 (S.D. Tex. Oct. 10, 2008).

³ Exhibit I, Affidavit of Lisa Levin.

⁴ See *Royal Ins. Co. of Am.*, 3 F.3d at 882.

8. Notice to State Court. Pursuant to 28 U.S.C. § 1446(d), Defendant intends to serve written notice of this removal on the state court promptly after filing this Notice of Removal.

FOR THESE REASONS, Defendant hereby effectuates removal of this cause to this Court.

Respectfully submitted,

/s/ *Laura J. Grabouski*
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on March 15, 2016, a true and complete copy of the above and foregoing instrument has been served via facsimile on Plaintiff's counsel of record as follows:

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/s/ Laura J. Grabouski
Laura J. Grabouski